



"I will stand for my client's rights.
I am a trial lawyer."
—Ron Motley (1944–2013)

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May 22, 2023

VIA ELECTRONIC MAIL

Hon. Richard Mark Gergel
U.S. District Court for the District of South Carolina
J. Waite Waring Judicial Center
83 Meeting Street
Charleston, South Carolina 29401

Re: *In re AFFF Products Liability Litigation*, MDL No. 2:18-mn-2873-RMG
City of Stuart v. 3M et al.

Dear Judge Gergel:

Plaintiff City of Stuart ("Plaintiff" or "Stuart") submits this letter in response to one aspect of Defendants' pretrial brief submitted to the Court on May 19, 2023.

Defendants state in their Pretrial Brief, for the first time, that Plaintiff is not entitled to punitive damages.¹ Defendants never moved for summary judgment to preclude Plaintiff from recovering punitive damages, and thus challenging Plaintiff's entitlement to punitive damages is improper and untimely. Further, Plaintiff disputes Defendants' assertion and has not yet had the opportunity to refute Defendants' contentions or present evidence from the abundant record which demonstrates that Defendants' conduct in this case constitutes intentional misconduct and/or gross negligence entitling Plaintiff to punitive damages.

Plaintiff will be prepared to address this matter at any time, but submits it is premature until Plaintiff rests its case in chief. At that time, Plaintiff is confident that it will have established, at the very minimum, a question of fact as to whether Plaintiff has proven by clear and convincing evidence that Defendants' conduct constituted intentional misconduct and/or gross negligence.

Respectfully submitted,

Fred Thompson, III
Plaintiffs' Liaison Counsel

cc: Defense Liaison Counsel (via email)
Cary Kotcher, Esq. (via email)(Cary_Kotcher@scd.uscourts.gov)

¹ Defs.' Pretrial Brief, at 18.